

U.S. DEPARTMENT OF LABOR

SECRETARY OF LABOR
WASHINGTON, D.C.

In the Matter of)
)

TENNESSEE INDIAN COUNCIL, INC.)
_____)

Case No. 83-CETA-13

FINAL DECISION AND ORDER OF THE SECRETARY OF LABOR

Having fully considered the record in the above-captioned matter, the Administrative Law Judge's (ALJ's) Decision and Order on Remand, and the pleading submitted to me by Tennessee Indian Council, Inc. (TIC), in response to my Show Cause Order of September 19, 1983,^{1/} I am persuaded that the ALJ's September 1 decision is meritorious and should be adopted herein.

In its "Response to Show Cause Order," TIC requests that the terms of the contemplated final decision, as described in the Show Cause Order, be enlarged to provide that the designation of United South and Eastern Tribes, Inc. (USET), as the Indian and Native American program grantee to serve in Tennessee during Fiscal Year (FY) 1984 be set aside, and that TIC be accorded an opportunity to file an application for that designation, with the selection between applicants to be competitive and on the basis of merit. TIC asserts, in effect, that this Department's

^{1/} No responsive pleadings were filed by the Grant Officer or United South and Eastern Tribes, Inc.

method of inviting applications for such designation was unfair in that it failed to inform TIC of the opportunity to apply.

Because of the impending expiration of FY 1983, time appears to be of the essence with respect to adoption of the ALJ's decision, and I will therefore take final action immediately concerning that. However, with respect to TIC's request for enlargement of the **contemplated** final decision, I believe that more time for consideration is required, and that the parties should be given an opportunity to submit briefs regarding it. Comments would be appreciated as to, inter alia, (1) whether a grant of TIC's request in a supplementary final decision and order by me in this matter would be procedurally appropriate (and, if not, what alternative procedural steps, if any, would be appropriate), (2) whether TIC had actual or constructive notice of the opportunity to timely file an FY 1984 application, and (3) whether the alleged direct transmission of an invitation to USET but not to TIC was so discriminatory (even if TIC had constructive knowledge) as to warrant setting aside the designation of USET as FY 1984 grantee.

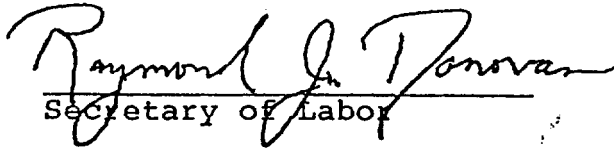
Accordingly, it is Ordered that:

1. The Administrative Law Judge's September 1, 1983, Decision and Order on Remand is incorporated by reference and adopted; and that

2. Any further selection of an Indian and Native American program grantee to serve in Tennessee during Fiscal Year 1984

shall be competitive and on the basis of merit, and that in such selection process no party shall receive benefit from its prior service as a program grantee as a result of its having been im- properly selected as a grantee in the past; and that

3. The parties to this matter are hereby notified that they may submit briefs to me regarding Tennessee Indian Council; **Inc.'s** request for enlargement of the terms of the contemplated final decision. Such briefs shall be filed on or before the following dates: (1) initial briefs, 15 days after the date of issuance of this decision; (2) reply briefs, 15 days after the closing date for filing of initial briefs: Provided, however, That if an above-indicated closing date occurs on a Saturday, Sunday, or National Holiday, the closing date shall instead be the first following regular business day; and further Provided, That such briefs shall be accompanied by certification that copies of them have been served upon the other parties.


Secretary of Labor

Dated: **SEP 30 1983**
Washington, D.C.

CERTIFICATE OF SERVICE

Case Name: Tennessee Indian Council, Inc.
Case No.: 83-CET-13
Document: Final Decision of the Secretary of Labor

The above-referenced document was mailed to the persons listed below on September 30, 1983

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